

1 ANTHONY L. HALL, Esq.  
2 Nevada Bar No. 5977  
3 AHall@SHJNevada.com  
4 SANDRA KETNER, Esq.  
5 Nevada Bar No. 8527  
6 SKetner@SHJNevada.com  
7 SIMONS HALL JOHNSTON PC  
8 6490 S. McCarran Blvd., Ste. F-46  
9 Reno, Nevada 89509  
10 Telephone: (775) 785-0088  
11 Fax: (775) 785-0087

12 *Attorneys for Plaintiff EnvTech, Inc.*

13 ENVTECH, INC. a Nevada Corporation,

14 Plaintiff,

15 v.

16 RICHARD VICTOR RUTHERFORD, an  
17 individual,

18 Defendants.

19 CASE NO.: 3:21-cv-00048-MMD-CLB

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**CONFIDENTIALITY  
AGREEMENT AND STIPULATION  
FOR ENTRY OF A QUALIFIED  
PROTECTIVE ORDER**

Plaintiff EnvTech, Inc. (“Plaintiff” or “EnvTech”) and Defendant Richard V. Rutherford (“Defendant” or “Rutherford”) (collectively, when possible, “the Parties”) by and through their respective counsel, agree as follows:

1. During the course of this litigation, a party may produce or disclose documents, materials, and information (collectively, “Information”) which are confidential, proprietary and/or contain personal information, financial information, business operations information and/or trade secrets. Similarly, such Information may be disclosed by written discovery, deposition testimony (to the extent taken), or in other filings with the Court. Accordingly, the Parties submit this Confidentiality Agreement and Stipulation for Entry of a Qualified Protective Order (the “Order”) for the approval and enforcement of the Court and hereby agree as follows:

1           2. All Information produced in this litigation and designated as “Confidential” or  
2 “Highly Confidential – Attorney’s Eyes Only” as provided below shall be used solely for the  
3 purpose of the Litigation in which the Parties are involved. With the exception of the related case  
4 pending in the District Court of Harris County, Texas, 129<sup>th</sup> Judicial District captioned *EnvTech,*  
5 *Inc. v. Taylor, et al.* (Cause No. 2021-02657), the parties will not use or disclose any Information  
6 marked Confidential or Highly Confidential – Attorney’s Eyes Only outside the context of this  
7 Litigation, including trial, preparation, and appeal. Any person receiving such Information  
8 designated as Confidential or Highly Confidential – Attorney’s Eyes Only shall restrict its  
9 disclosure to persons authorized to receive the Information designated as “Confidential” or “Highly  
10 Confidential – Attorney’s Eyes Only” pursuant to this Order. A Confidential or Highly  
11 Confidential – Attorney’s Eyes Only designation is applicable to all copies and reproductions of  
12 any Information. Nothing herein shall be deemed to restrict the right of the producing party to use  
13 its own Information that it has designated as Confidential or Highly Confidential – Attorney’s Eyes  
14 Only as it chooses. Nothing in this Order requires either party to produce Information the party  
15 believes is privileged or otherwise non-discoverable. By entering into this Order, the Parties do not  
16 waive any right to object to any discovery request, to the admission of evidence on any ground, to  
17 seek further protective order, or to seek relief from the Court from any provision of this Order.

18           3. Definition of “Confidential” Information: A producing party may designate as  
19 “CONFIDENTIAL” such Information which the producing party believes in good faith constitutes,  
20 contains, or reflects personal information, business operations information or financial information  
21 about a party or other person, or other information that is not generally known to the public.

22           4. Definition of “Highly Confidential - Attorney’s Eyes Only” Information:  
23 Information may be designated as “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY”  
24 when the designating party reasonably believes that the document contains information that the  
25 designating party deems especially sensitive, which may include, but is not limited to, trade secrets,  
26 the elements, component, formulas or recipes of chemical products, the methods and processes for  
27 developing and implementing neutralization and decontamination using neutral pH chelant  
28 technology, client identities, attributes and preferences, proposals, worksheets and plans, pricing

1 information, data, technical marketing, or any other sensitive trade secret or proprietary  
2 information.

3       5. Designating Information as “Confidential” or “Highly Confidential – Attorney’s  
4 Eyes Only”: All or any part of a document, item, testimony, or other Information disclosed,  
5 produced, or filed in this litigation may be designated as “Confidential” or “Highly Confidential –  
6 Attorney’s Eyes Only” by any Party, regardless of who disclosed, produced, or filed the document,  
7 by marking the word “Confidential” or “Highly Confidential – Attorney’s Eyes Only” on the face  
8 of the original of the document and each page so designated, or on the face of the photocopy of the  
9 document, and on the photocopies of each page so designated, except as to documents containing  
10 more than twenty (20) pages, in which case marking the top page as Confidential or Highly  
11 Confidential – Attorney’s Eyes Only will suffice. Oral testimony may be designated as  
12 Confidential or Highly Confidential – Attorney’s Eyes Only during the deposition or proceeding,  
13 with reasonable precision as to the affected testimony, or within seven (7) business days after  
14 receipt of the transcript of such deposition or proceeding by sending written notice designating, by  
15 page and line, the portions of the transcript of the deposition or other testimony to be treated as  
16 Confidential or Highly Confidential – Attorney’s Eyes Only. All or any part of responses to  
17 interrogatories or to requests for admission or for production of documents may be designated as  
18 Confidential or Highly Confidential – Attorney’s Eyes Only on the face of the response and each  
19 page so designated. The expense of labeling any information as “Confidential” or “Highly  
20 Confidential – Attorney’s Eyes Only” shall be borne by the designating party.

21       6. Challenging a Designation: Either of the Parties may challenge at any time the  
22 propriety of a designation of Information as Confidential or Highly Confidential – Attorney’s Eyes  
23 Only. Before seeking relief from the Court, the Parties shall attempt to resolve the dispute  
24 informally and in good faith. If the Parties are unable to resolve such dispute, it shall be submitted  
25 to the Court. The Information shall be treated as Confidential or Highly Confidential – Attorney’s  
26 Eyes Only pending resolution of the challenge.

27       7. No Implied Acknowledgement of Confidentiality: Compliance with the terms of this Order,  
28 production or receipt of Information designated Confidential or Highly Confidential – Attorney’s

1 Eyes Only, and/or allowing Information to be designated Confidential or Highly Confidential –  
2 Attorney's Eyes Only shall not in any way operate as an admission that any particular Information  
3 is Confidential or Highly Confidential – Attorney's Eyes Only. Failure to challenge the designation  
4 of Information as Confidential or Highly Confidential – Attorney's Eyes Only does not preclude a  
5 subsequent challenge. The designation of Information as Confidential or Highly Confidential –  
6 Attorney's Eyes Only does not create a presumption in favor of or against that designation.

7 8. Access to Information Designated Confidential or Highly Confidential – Attorney's Eyes  
8 Only:

- 9 a. Without prior written consent of the designating party, Information marked  
10 "CONFIDENTIAL" may be disclosed only to:  
11 1. Counsel of record for the respective Parties in the Litigation and their  
employees, including assisting attorneys, paralegals, and legal or  
administrative assistants, and vendors to whom it is necessary that the  
material be shown for purposes of this Litigation, including but not  
limited to court reporters, videographers, and document vendors;  
12 2. The Parties to this action and their representatives, including in-house  
counsel;  
13 3. Experts or consultants (including their employees, associates, and/or  
support staff) who are employed, retained, or otherwise consulted by  
counsel or a party for the purpose of analyzing data, conducting studies,  
or providing opinions to assist in any way in the litigation. Information  
designated Confidential that is accessed by experts or consultants shall  
be limited to documents that the experts or consultants reasonably need  
to review in their roles as experts or consultants;  
14 4. Electronic imaging and/or computer litigation support personnel retained  
by one or more of the Parties in this litigation or by the Parties' counsel;  
15 5. The Court and its personnel, including clerks and stenographic reporters  
who record deposition of other testimony in this litigation;  
16 6. Outside photocopying services, graphic production services, or litigation  
support services employed by the parties or their counsel to assist in this  
litigation, and computer personnel performing duties in relation to a  
computerized litigation system;  
17 7. Persons noticed for depositions or designated as trial witnesses to the  
extent reasonably necessary in preparing to testify;

- 1           8. Persons who were authors or recipients of the documents in the ordinary  
2           course of business; and
- 3           9. Any other person whom the producing party agrees to in writing.
- 4           b. Without prior written consent of the designating party, Information marked  
5           “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” may be disclosed  
6           only to:
  - 7           1. Counsel of record for the respective Parties in the Litigation and their  
8           employees, including assisting attorneys, paralegals, and legal or  
9           administrative assistants, and vendors to whom it is necessary that the  
10           material be shown for purposes of this Litigation, including but not  
11           limited to court reporters, videographers, and document vendors;
  - 12           2. Actual or potential independent experts or consultants, including  
13           testifying experts, consulting experts, and anyone retained to assist any  
14           expert or consultant, who shall each have read a copy of this Protective  
15           Order and shall have executed an acknowledgment so stating in the form  
16           of Exhibit A attached hereto;
  - 17           3. Persons who were authors or recipients of the documents in the ordinary  
18           course of business; and
  - 19           4. The Court, including Court personnel and persons employed by the  
20           Court, and any mediator appointed by the Court or agreed to by the  
21           Parties.
- 22           c. Counsel shall inform each person to whom they disclose or give access to the other  
23           Party’s Information designated Confidential or Highly Confidential – Attorney’s  
24           Eyes Only of the terms of this Order, as well as the obligation to comply with its  
25           terms, and said persons shall abide by the terms of this Order.
- 26           9. Depositions: To the extent depositions occur in this litigation, persons may be deposed  
27           regarding Information of which they have knowledge that has been designated Confidential or  
28           Highly Confidential – Attorney’s Eyes Only. Aside from the witness, no person shall attend any  
portion of any deposition containing testimony regarding Confidential or Highly Confidential  
Information except the Parties (if permitted according to the designation) and counsel for the Parties  
unless such person agrees to abide by this Order. Any court reporter who transcribes testimony in

1 this action at a deposition shall agree, before transcribing any such testimony, that all testimony  
2 containing Confidential or Highly Confidential – Attorney’s Eyes Only Information is and shall  
3 remain Confidential or Highly Confidential – Attorney’s Eyes Only and shall not be disclosed  
4 except as provided in this Order and that copies of any transcript, reporter’s notes or any other  
5 transcription records of any such testimony will be retained in absolute confidentiality and  
6 safekeeping by such shorthand reporter or delivered to attorneys of record.

7 10. Previously Produced Information: This Order does not affect the right of any of the Parties  
8 to designate as Confidential or Highly Confidential – Attorney’s Eyes Only any Information which  
9 has been disclosed, produced, or filed prior to the entry of this Order, regardless of which party  
10 disclosed, produced, or filed such Information. Any disclosure of such Information prior to its  
11 designation as Confidential or Highly Confidential – Attorney’s Eyes Only shall not be deemed a  
12 violation of this Order. This Order shall not prejudice the right of the Parties to designate as  
13 Confidential or Highly Confidential – Attorney’s Eyes Only the Information a party has  
14 inadvertently produced without the sought designation.

15 11. Filing Documents Under Seal: A party or non-party wishing to file a document designated  
16 as Confidential or Highly Confidential – Attorney’s Eyes Only shall file or submit for filing as part  
17 of the court record and documents under seal in accordance with Local Rule IA 10-5. The Party  
18 who has designated such materials as Confidential or Highly Confidential – Attorney’s Eyes Only  
19 shall submit an accompanying motion for leave to file those documents with the Court under seal,  
20 making the showing required under *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th  
21 Cir. 2006) and also complying with *Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092,  
22 1097 (9th Cir. 2016), to sustain the sealed status of such materials. Failure to file the motion to  
23 sustain that sealed status of the materials shall constitute a waiver of such designated status. In the  
24 event the Court refuses to allow the filing under seal of Confidential Information or Highly  
25 Confidential – Attorney’s Eyes Only, a party shall still be permitted to file such Information, but it  
26 will continue to be treated as Confidential or Highly Confidential – Attorney’s Eyes Only in all  
27 other respects, unless the Court deems otherwise.

28 12. Conclusion of Proceedings: Within thirty (30) days following termination of this litigation

1 by final judgment, settlement or otherwise (including any appeals):

2 (a) All Information subject to the provisions of this Order shall be destroyed or  
3 delivered to the producing party.

4 (b) To the extent any Information designated Confidential or Highly Confidential –  
5 Attorney's Eyes Only is destroyed, the destroying party shall so represent in writing to the  
6 producing party.

7 (c) As to Information filed under seal, the producing party shall be obligated to retrieve  
8 those documents from the Court and the other party will support any motion to this effect.

9 13. Jurisdiction and Enforcement: Any person to whom Information designated Confidential  
10 or Highly Confidential – Attorney's Eyes Only is disclosed shall be subject to the jurisdiction of  
11 the Court for purposes of determining, assuring, and adjudging such person's compliance with this  
12 Order. Although the parties agree to be bound by the confidentiality terms of this Order, the  
13 dismissal of this action will terminate the jurisdiction of this Court. Any party or person subject to  
14 this Order who violates its provisions shall be liable for damages for any injuries or loss suffered  
15 by the producing party as a result of such violation.

16 14. This Order and the agreement embodied herein shall survive the termination of this  
17 litigation and continue in full force and effect.

18 DATED this 30<sup>th</sup> day of April, 2021.

19 DATED this 30<sup>th</sup> day of April, 2021.

20 SIMONS HALL JOHNSTON PC

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,  
P.C.

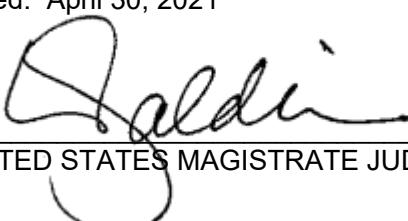
21 /s/ Sandra Ketner

22 Anthony L. Hall (SBN 5977)  
23 Sandra Ketner (SBN 8527)  
SIMON HALL JOHNSON PC  
24 6490 S. McCarran Blvd., Ste. F-46  
Reno, NV 89509  
*Attorneys for Plaintiff*

25 /s/ Molly M. Rezac

26 Anthony L. Martin (SBN 8177)  
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
Wells Fargo Tower, Suite 1500  
27 3800 Howard Hughes Parkway  
Las Vegas, NV 89169

28 Molly M. Rezac (SBN 7435)  
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
200 S. Virginia Street, 8<sup>th</sup> Floor  
Reno, NV 89501  
*Attorneys for Defendant*

29 IT IS SO ORDERED.  
Dated: April 30, 2021  


1                   **IT IS SO ORDERED.**

2                   xx  
3                   **UNITED STATES DISTRICT/MAGISTRATE JUDGE**

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5                   DATED: xxxxxxxxxxxxxxxxxxxxxx

SIMONS HALL JOHNSTON PC  
6490 S. McCarran Blvd., Ste. F-46  
Reno, NV 89509  
Phone: (775) 785-0088

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## EXHIBIT A

**ACKNOWLEDGMENT AND AGREEMENT TO  
ABIDE BY CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER**

THE UNDERSIGNED HEREBY UNDERSTANDS AND ACKNOWLEDGES that he/she has read the CONFIDENTIALITY AGREEMENT AND STIPULATION FOR ENTRY OF A QUALIFIED PROTECTIVE ORDER (“Confidentiality Agreement and Protective Order”) having been entered and approved by the presiding Court in Case No. 3:21-cv-00048-MMD-CLB.

The undersigned agrees to be bound by the terms of the above-referenced Confidentiality Agreement and Protective Order in the same manner as the parties and their counsel of record as described in the Confidentiality Agreement and Protective Order are bound. The undersigned agrees to provide counsel for the parties to this action with written notice of any document sharing, as well as a list of any recipients of shared documents. The undersigned also agrees to submit to the jurisdiction of the United States District Court, Unofficial Northern Division, in the State of Nevada for any proceedings related to any violation or threatened violation of this Order.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

By:

Print Name:

Title: \_\_\_\_\_

Company: